

CROWN PROCEEDINGS ACT 1988 No. 70

NEW SOUTH WALES



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CROWN PROCEEDINGS ACT 1988 No. 70

NEW SOUTH WALES



Act No. 70, 1988

An Act relating to civil proceedings by and against the Crown; to repeal the Claims against the Government and Crown Suits Act 1912; and for other purposes. [Assented to 23 November 1988]

Crown Proceedings 1988

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Crown Proceedings Act 1988.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. In this Act—

“civil proceedings” includes civil proceedings at law or in equity, and also includes proceedings by way of preliminary discovery, cross-claim, counterclaim, cross-action, set-off, third-party claim and interpleader;

“Crown” means the Crown in right of New South Wales, and includes—

- (a) the Government of New South Wales; and
- (b) a Minister of the Crown in right of New South Wales; and
- (c) a statutory corporation, or other body, representing the Crown in right of New South Wales;

“judgment” includes every species of relief which a court can grant, whether interlocutory or final, and whether by way of order that anything be done or not done or otherwise, and also includes a declaration.

Crown may sue

4. The Crown may bring civil proceedings under the title “State of New South Wales” against any person in any competent court.

Crown may be sued

5. (1) Any person, having or deeming himself, herself or itself to have any just claim or demand whatever (not being a claim or demand against a statutory corporation representing the Crown) may bring civil proceedings against the Crown under the title “State of New South Wales” in any competent court.

(2) Civil proceedings against the Crown shall be commenced in the same way, and the proceedings and rights of the parties in the case shall as nearly as possible be the same, and judgment and costs shall follow or may be awarded on either side, and shall bear interest, as in an ordinary case between subject and subject.

Service of documents on the Crown

6. (1) In connection with civil proceedings by or against the Crown under the title “State of New South Wales” a document required to be served on the Crown shall be served (subject to any other Act or law) on the Crown Solicitor.

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(2) Rules of court may be made with respect to the mode of service of documents on the Crown Solicitor for the purposes of this section, including rules that personal service may be duly effected by leaving a document at the office of the Crown Solicitor.

Satisfaction of judgment

7. (1) The Treasurer shall pay (out of any money legally available) all money payable by the Crown under any judgment, including any interest, except to the extent that the money is paid by some person other than the Treasurer.

(2) Execution, attachment or similar process shall not be issued out of any court against the Crown or any property of the Crown.

Demise of the Crown

8. (1) No proceedings (whether civil or criminal) involving the Crown shall abate or be affected by the demise of the Crown.

(2) For the purposes of this section, "demise" includes a demise by or on abdication.

Certain matters not affected

9. (1) This Act (except for section 10) does not affect any law, custom or procedure under which civil proceedings may be brought by or against the Crown under any title.

(2) Without limiting subsection (1), this Act does not affect any law, custom or procedure under which the Attorney General is entitled or liable to sue, or be sued, or to intervene in any proceedings on behalf of the Crown, on the relation of, or on behalf of, any other person or in any other capacity or for any other purpose whatever.

Repeal of Claims against the Government and Crown Suits Act 1912 No. 27

10. (1) The Claims against the Government and Crown Suits Act 1912 is repealed.

(2) Nothing in this Act affects proceedings commenced before the commencement of this section, and the repealed Act continues to apply in relation to any such proceedings as if this Act had not been enacted.

Amendments

11. Each Act specified in Schedule 1 is amended as set out in that Schedule.

*Crown Proceedings 1988***SCHEDULE 1—CONSEQUENTIAL AMENDMENTS**

(Sec. 11)

Conveyancing Act 1919 No. 6**Section 197 (Official searches)—****Section 197 (3)—**

Omit “under the Claims against the Government and Crown Suits Act 1912”, insert instead “against the Crown under the Crown Proceedings Act 1988”

Dairy Industry Act 1979 No. 208**Section 27 (Determination of quantity of milk accepted by the Corporation)—****Section 27 (4)—**

Omit “, the Government of New South Wales or any nominal defendant appointed under the Claims Against the Government and Crown Suits Act, 1912”, insert instead “or the Government of New South Wales”.

Heritage Act 1977 No. 136**Section 168 (Liability of members of Heritage Council etc.)—****Section 168 (2)—**

Omit “Government of New South Wales within the meaning of section 3 (1) of the Claims against the Government and Crown Suits Act 1912”, insert instead “Crown within the meaning of the Crown Proceedings Act 1988”.

[*Minister's second reading speech made in—
Legislative Assembly on 18 October 1988
Legislative Council on 15 November 1988*]
